Constitution of the Native Village of Atqasuk

We, a Native tribe of Ataqsuk, situated at Atqasuk, Alaska in order to establish a more perfect tribal government, to preserve and exercise the Tribe's inherent sovereign rights and powers, to conserve and develop tribal land and resources pursuant to tribal law and custom and federal law, and to establish justice, make for ourselves this Constitution pursuant to the Act of June 18, 1934 (48Stat.984), as amended.

ARTICLE I
NAME

SECTION 1. Name. The name of this Tribe shall be the "Native Village of Atqasuk," and shall hereinafter be referred to as "Tribe" or "Village."

ARTICLE II
TERRITORIAL JURISDICTION

SECTION 1. The territory of the Tribe shall include all lands selected by Atqasuk Inupiat Corporation under the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (PL. 92-203), any lands acquired by the Tribe, and those other lands in and near Atqasuk, including fee lands and allotments, which are identified as Indian Country pursuant to federal purposes as subsistence hunting, gathering, fishing and cultural, religious and spiritual purposes.

ARTICLE III
MEMBERSHIP

SECTION 1. Membership. All persons whose names appear on the official membership roll of the Tribe dated April 6,1995 shall be members of the Tribe.

SECTION 2. Children of Members. Any biological child of a tribal member shall be eligible to be enrolled as a member of the Tribe pursuant to applicable Tribal law. Any adopted child of a tribal member shall be eligible to be enrolled as a member of the Tribe if the child is of Alaska Native descent pursuant to applicable tribal law.

SECTION 3. Loss of Membership. Any tribal member may permanently relinquish his or her membership in writing. Membership may also be taken away for a good reason by the Tribal Council, pursuant to an Enrollment Ordinance adopted in accordance with the provisions of this Article.

SECTION 4. New Members. Any Native person who resides in the Village of Atqasuk, including any person who has forfeited or otherwise lost his or her membership in the Tribe, is eligible to be enrolled as a member of the tribe pursuant to applicable Tribal law.

SECTION 5. Dual Enrollment. Notwithstanding any other provision of the Constitution, no person who is enrolled in or recognized as a member of any other Indian tribe shall be eligible for membership in the Native village of Atqasuk unless he or she shall firsts have renounced membership in such other tribe, and unless satisfactory evidence first has been submitted that his or her name has been stricken from the roll of such other Tribe.

SECTION 6. Membership and Enrollment Rules. The Tribal Council shall adopt an ordinance establishing rules and procedures for membership and enrollment, consistent with the provisions of this Constitution.

ARTICLE IV
GOVERNING BODY

SECTION 1. Tribal Council and Officers. The governing body of the Tribe shall be known as the "Native Village of Atqasuk Tribal Council". The Tribal Council shall consist of a President and six other members, all of whom shall be entitled to vote. The seven Council members shall be elected directly by the voters. The Tribal Council shall itself each year elect a President, a Vice-President, and a Secretary/Treasurer from its members.

SECTION 2. Duties of Officers. The President shall preside at all meetings of the Tribe and of the Tribal Council and shall execute on behalf of the Tribe all contracts, leases or other documents approved by the Tribal Council. The President may vote in all matters except on the matter of the President's removal. The President shall have general supervision of all other officers, employees, agents and committees and shall see that their duties are properly performed. The President shall be the official representative of the Tribal Council without the Tribal Council's approval. The Vice-President shall assist the President when called upon to do so and, in the President's absence or disability, shall have all the rights, privileges, duties and responsibilities of the President. The Secretary/Treasurer shall keep the minutes of all Council meetings and shall record and attest to the enactment of all resolutions and ordinances.

SECTION 3. Eligibility. Any enrolled member of the Tribe, twenty-one (21) years of age or older, shall be qualified to seek and hold membership on the Tribal Council, provided that he or she has been a Village resident for at least twelve months directly preceding the election, and provided that he or she is fluent in English and able to understand Inupiaq. No person who has been convicted of a felony shall be eligible for membership on the Tribal Council.

SECTION 4. Terms. Council members shall be elected, by secret ballot, for terms of three years. The terms of the Council members shall be staggered as follows: at the first general election following the adoption of this Constitution, the voters shall elect three Council members for one-year terms; two Council members for two-year terms; and two Council members for three-year terms. Thereafter, at each annual general election, the voters shall elect three Council members or two Council members as appropriate, for three-year terms. Each Council member shall serve until his or her successor has been elected and seated.

SECTION 5. Council Meetings. The Tribal Council shall meet each month at a date and place to be fixed by action of the Tribal Council, and at such other times and places as may be designated by action of a majority of the Tribal Council or the President. A quorum to transact business shall consist of at least four Council members. To be effective, at least four Council members shall vote on all motions, resolutions, and ordinances. The Tribal Council shall keep complete and accurate records of all proceedings, including reports of actions taken at every meeting.

SECTION 6. Oath of Office. Before entering upon their official duties, all members of the Tribal Council and all other tribal officers shall take and subscribe to the following oath and affirmation to be administered by a qualified officer:

> I,_____, do solemnly swear (or affirm) that I will support and defend the customs, laws and Constitution of the Native Village of Atqasuk; that I will carry out faithfully and impartially the duties of my office as _____to the best of my abilities; and that I will promote and protect the best interests of the Native Village of Atqasuk Tribal Council, in accordance with this Constitution.

SECTION 7. Vacancies. Any office that has been vacated, whether by removal, recall, or forfeiture, shall be filled by appointment by the remaining Council at its next meeting and such appointee shall serve until the next general election. In the event the term of the vacated office will not expire at the next general election, the voters shall elect a successor to serve the balance of the term.

SECTION 8. Forfeiture. Any member of the Tribal Council who submits a written resignation, or is convicted of a felony while in office, or is absent from three successive monthly Tribal Council meetings without being excused for good cause by the Tribal Council, shall automatically forfeit his or her office.

SECTION 9. Removal. Any member of the Tribal Council found guilty by the Tribal Council of neglect of duty, gross misconduct in office, or any offense involving dishonesty may be removed from office by the Tribal Council by at least four (4) Tribal Council members voting by secret ballot, provided that such member shall first be given ten (10) days' notice in writing of the charges against him or her and be given an opportunity to answer such charges before the Tribal Council.

No member of the Tribal Council shall reside over the meeting at which his or her removal is being considered. All questions of removal under this section shall be resolved by the Tribal Council and the decision of the Tribal Council shall be final.

SECTION 10. Recall. Any member of the Tribal Council may be recalled by the tribal voters if a valid petition requesting such recall and setting forth the reasons, signed by at least ten percent (10%) of the enrolled members of voting age, is presented to the Tribal Council. The Tribal Council shall, within thirty (30) days of receipt of such petition, call an election to consider the recall of the named official, such election to be conducted pursuant to the election ordinance. If a majority of the voters vote in favor of the recall, the official shall be removed. No official may be subjected to recall proceedings more than once in the course of his or her term.

ARTICLE V
GENERAL MEMBERSHIP MEETINGS

A meeting of the general membership may be called at any time by the Tribal Council, provided that the Tribal Council shall call such a meeting at least once a year. The Tribal Council shall adopt an ordinance establishing rules and procedures for general membership meetings. At such meetings, the general membership shall furnish its advice to the Tribal Council.

ARTICLE VI
ELECTIONS

SECTION 1. General Election. The Tribal Council shall set the second Tuesday of September of every year for regular elections in the Village, and shall give at least thirty (30) days' notice of such election, posted in three (3) public places.

SECTION 2. Voter Qualifications. Any member of the Tribe eighteen years of age or older shall have the right to vote in all tribal elections, provided that he or she is physically present in the village to cast his or her ballot.

SECTION 3. Election Ordinance. The Tribal Council shall adopt an ordinance establishing rules and procedures to govern all aspects of elections, and election protests.

ARTICLE VII
POWERS OF THE TRIBAL COUNCIL

SECTION 1. Powers. The Tribal Council shall exercise the following powers by appropriate motion, resolutions or ordinance, subject to any limitations imposed by this Constitution or the Constitution or applicable laws of the United States:

(a) To negotiate with tribal, federal, state, foreign, and local governments and agencies, and others on behalf of the Tribe and to advise and consult with all federal and state agencies and governmental entities on all matters which may affect the Tribe.

(b) To promote and protect the health, education and general welfare of the members of the Tribe, and to administer charity and such other service as may contribute to the social, cultural, and economic development of the Tribe and its members.

(c) To levy taxes or license fees.

(d) To regulate the internal procedures of the Tribal Council.

(e) To encourage, guard and foster traditional cultural practices of the Atqasuk native people, including the arts, crafts, religion, language and customs of the Tribal Council.

(f) To authorize or direct subordinate boards, committees, tribal officials or tribal employees to administer the affairs of the Tribe and to carry out the directives of the Tribal Council.

(g) To manage, lease, exchange, acquire, or otherwise deal with tribal property, and to protect and preserve tribal property and the wildlife and natural resources within those areas under the jurisdiction of the Tribe. The foregoing powers shall not include the power to sell, encumber (otherwise than by leasing), or dispose of tribal lands or interests in lands, except on the affirmative, vote of a majority of the tribal members at a general membership meeting.

(h) To administer any funds within the control of the Tribe.

(i) To engage in tribal economic development enterprises for the benefit of tribal members.

(j) To provide for the maintenance of law and order and the administration of justice, including through the establishment of appropriate Tribal Courts.

(k) To safeguard and promote the peace, safety, morals, physical and general welfare of the members of the Tribe.

(l) To employ legal counsel, provided that the exercise of this power shall be subject to the approval of the Secretary of the Interior, so long as required by Federal law.

(m) To prescribe the rules and procedures necessary to give effect to any provision of this Constitution.

(n) To form a federation or union with other tribes subject to approval by the tribal voters.

(o) To prevent the involuntary transfer, to a non-member, of any member's lands, interest in lands or other assets within the territory of the village except in accordance with a duly-enacted tribal ordinance.

SECTION 2. Powers Reserved to Membership. All rights and powers not delegated to the Tribal Council in this Constitution are reserved to the people and may be exercised by the members of the Tribe through the adoption of amendments to this Constitution except as otherwise provided in this constitution.

SECTION 3. Initiative and Referendum. The members of the Tribe may propose and enact laws by the initiative, and approve or reject enactments of the Tribal Council by the referendum. An initiative may only propose laws that the Tribal Council is empowered to enact. An initiative or referendum is proposed by a petition setting forth on the top of each page the proposed law to be initiated or the ordinance to be referred, and carrying the signature, printed name and address of no fewer than ten (10%) percent of the tribal members of voting age, provided that the Tribal Council may initiate a referendum on its own motion without a petition. A referendum petition may only be filed within ninety (90) days of the enactment of the ordinance to which it is directed. The text (or a summary thereof) of the proposed law or action shall be placed on the ballot of the first special or general tribal election held more than sixty (60) days after the filing of the initiative or referendum petition, provided that an election on such petition shall be held no more than one hundred twenty (120) days after its filing, provided further that if prior to the election the Tribal Council takes action to enact or repeal an ordinance substantially similar to the measure proposed, the petition shall be deemed void. An initiated law becomes effective thirty (30) days after certification of the results of an election at which a majority of the votes cast are in favor, and for two (2) years thereafter may be amended by the Tribal Council but not repealed. An ordinance rejected by referendum is void thirty(30) days after certification of the results of an election at which a majority of the votes cast favor rejection. No initiative or petition may apply to the dedication of tribal revenues, to tribal appropriations, to the establishment of tribal judicial systems, to local or special legislation, or to the repeal of laws necessary for the immediate preservation of the public peace, health, or safety.

SECTION 4. Sovereign Immunity. Nothing in this Constitution constitutes a waiver of the sovereign immunity of the Tribe. The sovereign immunity if the Tribe may only be waived by express resolution of the Tribal Council adopted on the affirmative vote of no fewer than five Council members. No resolution generally waiving the Tribe's sovereign immunity shall be valid.

To be valid, a resolution waiving the Tribe's sovereign immunity must be specific and limited as to its duration, the grantee, the transaction, the court having jurisdiction and the law to be applied, and the property or funds of the Tribes subject to the waiver, if any. No resolution shall be deemed a general consent to the levy of any judgment, lien, or attachment upon the funds or property of the Tribe other than the funds or property specifically pledged, assigned, or otherwise expressly made subject to levy in the resolution.

SECTION 5. Annual Reports. The Tribal Council shall make an annual report, in writing, of its activities, including a budget report to the Tribe at the annual membership meeting.

SECTION 6. Actions of the Tribal Council. All ordinances, resolutions and motions shall be acted upon by the Tribal Council by a roll-call vote in public, and the vote of each member shall be recorded.

SECTION 7. Ordinance. An ordinance shall take effect only after being posted in a public place for thirty (30) days after its adoption by the Tribal Council. All enacted ordinances shall be made available for public inspection at the tribal office.

ARTICLE VIII
AMENDMENT OF THE CONSTITUTION

This Constitution may be amended by a majority vote of the qualified voters of the Native Village of Atqasuk at an election called by the Secretary of the Interior or his or her authorized representative in which at least thirty percent (30%) of the qualified voters participate. The Secretary shall call such an election on a proposed Constitutional amendment at the request of five (5) of the seven (7) Tribal Council members or upon petition of thirty percent (30%) of the Tribe's members of voting age.

ARTICLE IX
BILL OF RIGHTS

SECTION 1. The Tribe shall not make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances.

SECTION 2. The Tribe shall not violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause. supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

SECTION 3. The Tribe shall not subject any person for the same offense to be twice put in jeopardy.

SECTION 4. The Tribe shall not compel any person in any criminal case to be a witness against himself.

SECTION 5. The Tribe shall not take any private property for a public use without just compensation.

SECTION 6. The Tribe shall not deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnessed in his favor, and at his own expense to have the assistance of counsel for his defense.

SECTION 7. The Tribe shall not require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of twelve (12) months, or a fine of Five Thousand Dollars ($5,000.00), or both.

SECTION 8. The Tribe shall not deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

SECTION 9. The Tribe shall not pass any bill of attainder or ex post facto law.

SECTION 10. The Tribe shall not deny any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

ARTICLE X
ADOPTION

This Constitution, when ratified by a majority vote of the qualified tribal voters of Native Village of Atqasuk at an election called by the Secretary of the Interior or his or her authorized representative in which at least thirty percent (30%) of the qualified voters participate, shall be submitted to the Secretary of the Interior for his approval and shall be effective from the date of his approval.

ARTICLE XI
SAVINGS AND SEVERABILITY

SECTION 1. All enactments and official acts of the Tribe promulgated or adopted prior to the effective date of this Constitution shall remain in full force and effect to the extent they are not inconsistent with any provision of the Constitution, and in the event of any conflict with this Constitution, the provisions of this Constitution shall control.

SECTION 2. The provisions of this Constitution are severable, and should any provision of the Constitution be determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of this Constitution.

APPROVED BY THE NATIVE VILLAGE OF ATQASUK TRIBAL COUNCIL ON APRIL 6, 1995.

President

Attested:

Secretary